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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA
AND THE CALIFORNIA ENERGY COMMISSION

Order Instituting Rulemaking to Implement the Commission's Procurement Incentive Framework and to Examine the Integration of Greenhouse Gas Emissions Standards into Procurement Policies.	Rulemaking 06-04-009 (Filed April 13, 2006) Energy Commission Docket 07-OIIP-01

PACIFICORP'S RESPONSE TO ADMINISTRATIVE LAW JUDGES' RULING REQUESTING COMMENTS AND LEGAL BRIEFS ON MARKET ADVISORY COMMITTEE REPORT

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Date: August 6, 2007

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PacifiCorp appreciates the opportunity to respond to the Administrative Law Judges' request for comments on the June 30, 2007 Market Advisory Committee Report entitled, "Recommendations for Designing a Greenhouse Gas Cap-and-Trade System for California" ("MAC Report"). PacifiCorp respectfully submits these comments in accordance with the Administrative Law Judges' request, dated July 19, 2007, and pursuant to Rules 1.9 and 1.10 of the California Public Utilities Commission's ("Commission") Rules of Practice and Procedure.

I. GENERAL COMMENTS

PacifiCorp is one of the West's leading utilities, serving more than 1.6 million customers in six western states (California, Idaho, Oregon, Utah, Washington, and Wyoming). PacifiCorp also has ownership interests in thermal generation units located in three additional western states (Arizona, Colorado, and Montana). PacifiCorp has more than 10,400 megawatts of generation capacity from coal, hydro, wind power, natural gas-fired combustion turbines, solar and geothermal.

PacifiCorp is concerned that the MAC Report's recommendations, in general, fail to consider the unique situation of PacifiCorp and other small multi-jurisdictional utilities districts ("SMJUs"). The combination of utility-owned generating resources and resources providing contracted for power located throughout the western United States, coupled with load-serving responsibilities and multi-state cost structures, puts SMJUs in the complicated position of having to equitably assign the costs of system energy, including emissions, to each state's retail load. PacifiCorp believes that special rules need to be developed for SMJUs to address their complicated position in the western energy market. The Commission has recognized the unique implementation issues facing SMJUs before, most notably within the Renewable Portfolio Standard Program docket R.06-02-012. Unlike large California investor-owned utilities, PacifiCorp's generating assets and power purchases are not used exclusively to serve California retail load. PacifiCorp also does not rely significantly on unspecified power purchases.

PacifiCorp is concerned that the MAC Report's recommendations fail to consider practical implementation issues. The Commission has routinely stated it prefers a "simpler is better" approach. It has opted for simplicity where it could, unless there were reasons or details that require complexity. PacifiCorp believes that the "first seller" approach needlessly and exponentially increases the number of entities whose actions would need to be regulated by California. In contrast, under a load-based approach, the point of regulation would be placed upon California electricity load-serving entities ("LSEs"). Within California, there are currently five investor-owned utilities, approximately twenty-six municipal electric utilities, three rural cooperatives, approximately seventeen federal and state agencies and irrigation districts which could be considered electric utilities[1] and approximately seventeen registered electric service providers.[2] That equates to less that seventy California entities that could be regulated under a load-based approach versus literally hundreds, perhaps thousands, of electricity generators and power marketers located throughout the Western Electricity Coordinating Council ("WECC")[3] whose transactions would need to be overseen by California under "first seller" approach.

PacifiCorp also believes the MAC Report may have prematurely overstated the value of the first seller approach regarding the estimation of greenhouse gas ("GHG") emissions. On the issue of contracted generation, both approaches require some estimation of GHG emissions. The First Seller approach would require a seller to be responsible for reporting the emissions associated with a contract. Under the load-based approach, the seller would have no such responsibility and the load serving entity (i.e., the buyer) would be obligated to accurately identify the source of the electricity underlying the contract. PacifiCorp believes the Commission should explore procurement or contracting rules (i.e., standard contracting provisions) that encourage LSEs to develop energy portfolios that consist mainly of owned generation or source-specific contracted generation, and discourage non source-specific transactions. Such a mechanism would provide LSEs the incentive to contract for lower-emitting resources and, potentially, reduce GHG related emissions from generation procured for customers in California. Considering the operation of the California electricity market today and in the future under the California Independent System Operator's Market Redesign and

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[1] See, California Energy Commission website (http://www.energy.ca.gov/electricity/utilities.html)
[2] See, California Public Utilities Commission website (http://www.cpuc.ca.gov/published/ESP_Lists/esp_udc.htm)
[3] The WECC region encompasses a vast area of nearly 1.8 million square miles. It is the largest and most diverse of the ten regional councils of the North American Electric Reliability Council (NERC). WECC's service territory extends from Canada to Mexico. It includes the provinces of Alberta and British Columbia, the northern portion of Baja California, Mexico, and all or portions of the 14 western states in between. Transmission lines span long distances connecting the verdant Pacific Northwest with its abundant hydroelectric resources to the arid Southwest with its large coal-fired and nuclear resources.

Technology Upgrade ("MRTU"), linking GHG emissions from contracted generation to the a LSE will not be easy, but it is not impossible and it would be an exercise limited in scope to just the California entities.

For example, the Commission, within this very docket, has recently adopted California LSE procurement rules on specific, long term financial commitments (greater than five years in length), which require the disclosure of a new build or contracted resource's pounds of carbon dioxide per megawatt-hour emissions rate. California could similarly require an average emissions rate disclosure requirement for other types of contracted generation. PacifiCorp believes the MAC Report failed to consider how the Commission's oversight authority and procurement rules could assist the California Air Resources Board with obtaining the desired emissions disclosure from contracted generation by more closely regulating the buyer's side of the transaction.

II. SPECIFIC COMMENTS

The specific concerns of PacifiCorp regarding the MAC Report are outlined below as responses to the questions issued by the July 19, 2007 Administrative Law Judges' request for comments.

Response to Question No. 9: Leakage and Contract Shuffling:

As stated above, the vast majority of PacifiCorp's customers and facilities are outside of California. PacifiCorp's Multi-State Process Revised (inter-jurisdictional cost allocation) Protocol ("Revised Protocol") recognizes each state's right to establish fair, just, and reasonable rates for PacifiCorp's energy based upon the law of that state. Each state has different interests in megawatt-hour and resource procurement which may not be consistent with California's GHG emission policies. California does not have the authority to pre-empt another state's resource procurement rules such that additional costs are imposed on regulated customers in another state. As such, any rules designed to address leakage, contract shuffling or other out-of-state issues, needs to recognize and respect the authority of other state jurisdictions to approve megawatt-hour and resource purchases, and recovery of the costs that PacifiCorp incurs in meeting the requirements of the many states in which PacifiCorp is subject to jurisdiction.

At present, the energy that PacifiCorp delivers to its 1.6 million customers (only about 50,000 of which are in California) is provided by both utility-owned generating resources and power purchases. The output from these resources is treated by PacifiCorp as system energy (i.e., a specific resource's electricity output is not assigned to a particular state or customer). For purposes of establishing retail rates, PacifiCorp uses a Revised Protocol allocation methodology to determine how costs and revenues associated with PacifiCorp's generation, transmission and distribution system will be assigned or allocated among the six-State jurisdictions. For thermal generating resources, the fixed costs are allocated based on each state's relative contribution to system peak and energy requirements. The variable costs are allocated based on each state's relative contribution to system energy requirements using the system energy factor (the "SE Factor").

PacifiCorp then similarly applies the SE Factor to allocate to each state jurisdiction its share of GHG emissions generated by the utility-owned system resources. In 2004 and 2005, the SE Factor for California was 1.8649% and 1.7553%, respectively. As California's share of the annual output of system energy is measured, so is the imputed GHG emissions associated with the generation of the system energy. To the extent PacifiCorp lacks allowances under either load-based or first-seller rule to cover emissions imputed to California retail load, costs for obtaining allowances would be paid for exclusively by California customers.

Specifically, any emissions allocation system needs to recognize PacifiCorp's multi-state commission-approved methodology and ensure that a state's cost allocations are not adversely impacted by a conflicting state's GHG allocations system.

PacifiCorp is currently engaged in discussions with the multiple state utility commissions regarding the Revised Protocol primarily driven by the establishment of state renewable portfolio standards within California, Oregon, and Washington and the possible new construction of coal-fired generation which cannot be used to serve retail load in California and Washington.[4] PacifiCorp will need flexibility to optimize its system portfolio to ensure compliance with the state policies. PacifiCorp cannot predict the outcome of these discussions at this time, but requests that California allow PacifiCorp to continue to rely on its current SE Factor methodology for assigning GHG emissions, as well as provide the company flexibility to deviate or possibly even abandon it in favor of a different cost allocation methodology(ies) for system energy if subsequently approved by California and the other states in which PacifiCorp provides electricity to retail customers. PacifiCorp prefers to attribute GHGs generated by system energy by using the SE Factor methodology tied to each state's relative contribution to system energy requirements.

Assuming PacifiCorp is granted the authority to do so, its ability to assign specific system resources to California should not be considered "leakage" or "contract shuffling." Because PacifiCorp does not own any thermal generation within California and instead relies upon system resources to serve California retail load, PacifiCorp is not increasing GHG emissions inside or outside California—it would simply be assigning the GHG emissions of its

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[4] Both California and Washington have adopted greenhouse gas emissions performance standards, which effectively preclude the use of new coal-fired resources to serve retail load.

existing system resources as applicable to the energy delivered to its various state customers. Such ability to assign the GHG emissions of PacifiCorp's existing system resources also should not be considered "contract shuffling." PacifiCorp is not creating artificial reductions in GHG emissions by contracting with other entities, but rather would be assigning the GHG emissions associated with the various system resources to states in accordance with their energy and climate policies.

PacifiCorp reiterates it will be necessary to obtain the consent of all of its states to deviate from the Revised Protocol in order to assign specific system resources exclusively to California or any other state PacifiCorp serves. Several of the other states PacifiCorp serves are also signatories to the Western Climate Initiative (i.e., Oregon, Utah, and Washington). In the current Revised Protocol work group meetings, PacifiCorp expects these states will necessarily weigh any potential adjustments to the attribution of GHG emissions linked to any potential changes in the assignment of the costs and output of specific system resources.

Response to Question No. 12-14: Price Impacts—Wholesale Power Prices and Reliability for Consumers:

As both a generator and LSE, PacifiCorp faces compliance costs under either the first-seller or load-based approach. However, the first-seller approach would require reporting in two different roles: as a California utility and as a wholesale supplier to other California LSEs. Costs related to compliance as a California utility would be born exclusively by California ratepayers, while costs associated with complying as a provider of wholesale electricity could be potentially born by California and the other states PacifiCorp serves.

PacifiCorp believes electricity prices and cost are likely to increase, and reliability for consumers is likely to decrease, more so under a first-seller approach than under a load-based approach. The first-seller approach presents two fundamental issues—potential losses in market liquidity and hedging/financial instruments—that may dramatically increase costs, and thus prices, to consumers. Reliability of energy supply is also threatened under the first-seller approach due to the significant potential for generators to simply avoid the California market due to the perceived cost of compliance with California regulations. As some wholesale sellers leave the California market to avoid compliance costs, the remaining market participants will add an arbitrage cost to their energy price, which will be passed on to the California consumer.

The decrease in market liquidity will be accompanied by a loss in hedging and other financial instruments that currently help keep California energy prices low by adding diversity to the California energy market. In the California market, intervening actors, such as banks and power brokers, provide diversity and depth—allowing more resources for price comparison, competition, and stability. Under a first-seller approach, the role of these intervening actors will diminish as the wholesale power market gravitates toward transactions with physical plants that can be traced directly to emissions allocations rather than financial instruments where emissions may not be tied to specific power plants. As the role of brokers and banks decrease in the wholesale market, market liquidity and depth will decrease causing prices to increase.

These risks are lessened by the load-based approach as the LSEs generally do not have the option to avoid the California market, but rather have an obligation to serve their California customers. LSEs can better manage balancing purchases of energy with obtaining the necessary GHG allowances.

Response to Question No. 22: Interaction with Renewable Portfolio Standard:

PacifiCorp believes that a first-seller approach has the potential to discourage investment in and development of renewable energy by imposing costly administrative burdens associated with reporting and accounting for GHG emissions, even though the actual GHG emissions for renewable energy are below the level of significance. Although the current RPS and proposed increases to the RPS will ensure that some renewable energy remains in the California market, the compliance costs placed on renewable energy under a first seller approach will needlessly increase the price, drive down demand (outside of mandated RPS purchases), and thus discourage investment in renewable energy.

Response to Question No. 32: Would Implementation of a First-Seller Approach Necessitate Auctioning of GHG Emissions Allocations?:

As discussed in Response to Question No. 9, PacifiCorp believes that SMJU's have unique and complicated positions compared to other LSEs and power generators under the "first-seller" approach and the Commission and CARB should develop unique rules to accommodate SMJU's. PacifiCorp owns a significant amount of its generation. Under a first-seller approach, PacifiCorp would be obligated to secure allowances for both its generation and contracted power, the majority of which are located and deliver energy to PacifiCorp's system outside of California. The financial risk from competing in an allowance auction is relatively much greater compared to other California LSEs because many have divested themselves of fossil generation. Thus they can more easily support an auction, including proposals where the LSEs, rather than the State, administer the auction and relies on the proceeds to fund utility programs. In PacifiCorp's case, it would be absurd to require it to conduct an auction, when it would be the principle bidder. PacifiCorp does not rely heavily on market purchases from within

California. PacifiCorp does not believe an auction is absolutely necessary for SMJUs.

<u>Response to Question No. 33: Allocation of Emissions</u>

If the first seller approach is adopted, then PacifiCorp suggests that allocations be given as follows:

(a) Allowances should be given to the first seller/deliver in California.

(b) Allowances should be given based on historical GHG emissions associated with the delivered energy. As PacifiCorp has testified, the decisions to build fossil power plants, which were made over many decades and were intended to achieve a fuel mix, were economically rational and in virtually all cases were approved by regulatory authorities. LSEs should not be punished for past prudent decisions. Also, PacifiCorp does not support providing allowances to non-emitters based on the output-based methodology because we believe it will simply create large wealth transfers unrelated to the overall goal of emissions reduction. It is unclear what public purpose would be served by distributing allowances to non-emitters. Companies that built hydroelectric dams many decades ago or nuclear plants in the sixties and seventies did not do so to avoid carbon dioxide emissions and there is no reason to provide them with a financial windfall.

(c) In the case of PacifiCorp, there are historical records and projected load for its California customers, and historical information for sales of power to third parties by PacifiCorp in California.

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(g) PacifiCorp would be unlikely to have windfall profits as it must serve its California customers and will need GHG allowances to do so. By contrast, if PacifiCorp had to purchase GHG allowances, those costs would fall upon California customers.

<u>Response to Question No. 34: If Allocations are Administered to Retail Providers and then Auctioned to First-Sellers, How Should that Auction Be Administered:</u>

See Response to Question No. 32.

Where allowances are auctioned, there is a risk of, and, indeed, an incentive for, non-generators bidding to acquire GHG allowances. Financial speculators could participate, hoping to acquire allowances cheaply and sell them to companies that need them to operate at a higher price. The risk alone could drive up the bid price in these auctions. As the cost of acquiring allowances eventually will be passed on the California electricity consumers, market manipulation that drives up the cost of allowances, the supply of which will be limited, should be prevented.

PacifiCorp believes limitations on auction participants is the most direct way to address this risk. Rules for bidders could include either currently being a first-seller of electricity in California, having a pending application for a California-based generation unit, or being able to show to the satisfaction of regulatory staff that they have a good faith and reasonable expectation that they will be a first seller in California during the compliance period for which the allowances apply—coupled with administrative/criminal penalties if they are shown not to have pursued such plans in good faith during the compliance period.

<u>Response to Question No. 43-47: Federal Power Act Preemption:</u>

The Federal Power Act preempts the "first-seller" approach because the "first-seller" approach would impermissibly interfere with the Federal Energy Regulatory Commission's ("FERC") exclusive jurisdiction over sales of wholesale energy.

Under the Supremacy Clause of the United States Constitution, state laws that "interfere with, or are contrary to the laws of Congress" are preempted and are therefore invalid. *Gibbons v. Ogden*, 22 U.S. (9 Wheat) 1, 211, 6 L.Ed. 23 (1824). Such preemption may be express or implied. Express preemption occurs when Congress' intent to preempt state law is explicitly stated in the statute's language. *See, e.g., Jones v. Rath Packing Co.*, 430 U.S. 519, 525 (1977); *Nathan Kimmel, Inc. v. DowElanco*, 275 F.3d 1199, 1203 (9th Cir. 2002). Implied preemption occurs "either when the scope of a statute indicates that Congress intended federal law to occupy a field exclusively, . . . or when state law is in actual conflict with federal law." *Freightliner Corp. v. Myrick*, 514 U.S. 280, 287 (1995).

The FPA explicitly grants FERC jurisdiction over electric energy transmissions in interstate commerce and wholesale sales of electricity. Section 201(b)(1) of the FPA provides:

> The provisions of this subchapter shall apply to the transmission of electric energy in interstate commerce and to the sale of electric energy at wholesale in interstate commerce….The Commission shall have jurisdiction over all facilities for such transmission or sale of electric energy, but shall not have jurisdiction . . . over facilities used in local distribution or only for the transmission of electric energy in intrastate commerce, or over facilities for the transmission of electric energy consumed wholly by the transmitter.

16 U.S.C. § 824(b)(1) (emphasis added). Thus, the statute includes two separate grants of authority—it gives FERC jurisdiction over all interstate transmission without qualification, while at the same time granting FERC jurisdiction over wholesale sales. *Id.*; *cf. Federal Power Comm'n v. Louisiana Power & Light Co.*, 406 U.S. 621, 636 (1972). FERC's jurisdiction over interstate wholesale rates is exclusive. *Florida Power & Light Co.*, 29 FERC 61,140, 1984 FERC LEXIS 664 (1984) at 61,292 ("Once the Commission's jurisdiction under the [Federal Power Act] is determined, it is exclusive and preempts the States from regulating the transmission of electric power or the sale of wholesale electric power in interstate commerce.").

The "first-seller" approach would, according to the MAC Report, treat wholesale power importers as "first-sellers" in need of allocations to sell their power in the state. Without emissions allocations, these wholesale power sellers would be unable to sell power within the state. Thus, the MAC Report would directly regulate wholesale sales by determining which wholesalers are authorized to sell power and how much each wholesaler will be able to sell. This is a direct violation on the exclusive jurisdiction of the FERC in regulating the wholesale energy market. The state of California cannot unilaterally determine what parties are allowed to participate in the wholesale energy market. Beyond impermissibly regulating who can participate in the wholesale energy market, the "first-seller" approach would impose additional costs associated with buying allocations, which will directly affect the costs of wholesale energy. A "load-based" approach would, by definition, avoid regulating wholesale sales of energy, and thus would not be preempted by the Federal Power Act.

Response to Question No. 48-51: Dormant Commerce Clause:

The MAC Report's suggests that auctioning GHG allowances would provide funds that could be sued for "transition assistance for workers and industries subject to strong market pressures from competitors operating in jurisdictions that lack similar caps on [GHG] emissions." Although the MAC Report is not clear precisely which industries would benefit, such financial assistance to in-state first sellers would violate the dormant commerce clause by essentially taxing out of state businesses and distributing benefits to in-state businesses.

The dormant commerce clause prohibits state and municipal regulations that discriminate against out-of-state parties or unduly infringe upon interstate commerce. A regulation violates the dormant commerce clause where it "discriminates on its face against interstate commerce." *United Haulers Association v. Oneida-Herkimer Solid Waste*

Management Authority, 127 S.Ct. 1786, 1793 (2007). By discrimination, the Court "means the differential treatment of in-state and out-of-state economic interests that benefits the former and burdens the latter." *Id.* citing *Oregon Waste Systems, Inc. v. Department of Environmental Quality of Ore.*, 511 U.S. 93, 99 (1994).

In *United Haulers*, the Court noted that a key indicator of economic protectionism is where "substantially similar entities" are treated differently based on whether they are in-state or out-of-state. *Id.* at 1795. The Supreme Court distinguishes between "flow control ordinances" that direct benefits to private entities and those that direct benefits to public entities. The Court has ruled that when a regulation impacts out-of-state businesses and the benefits of that regulation are directed toward competing in-state businesses, then the regulation is discriminatory and violates the dormant commerce clause. *Id.* (*United* Haulers involved a flow control ordinance benefiting a public entity, which the Court differentiated from its decisions on ordinances benefiting private entities); citing and differentiating from *C&A Carbone, Inc. v. Clarkstown,* 511 U.S. 383, 114 S.Ct. 1677.

If California were to direct revenues from GHG allocation sales to in-state first sellers, in essence returning to them some portion of their own payments for such GHG allowances, that would discriminate directly against out-of-state first sellers, who had to purchase GHG allowances, but got none of such payments back through "assistance" from California. Where revenues generated by requiring out-of-state sellers to purchase allocations are given to their in-state competitors, we certainly have "substantially similar entities" being treated differently. The motivation behind the distribution is clearly economic protectionism—to aid in-state businesses in competing against out-of-state businesses. The MAC Report asserts that the distributions are made in order to offset the costs GHG emissions regulations that out-of-state businesses do not face, yet out-of-state businesses selling energy in California will incur costs just as Californian businesses. It would be economic protectionism to use proceeds from the sale of energy in California to benefit only California businesses when out-of-state parties will face the same costs.

Additionally, depending upon the final form, the "first-seller" approach may impact energy rates for consumers outside of California. If the regulations that are adopted "regulate extraterritorially," then such regulations may violate the dormant commerce clause. *See, e.g. Healy v. The Beer Inst.,* 491 U.S. 324, 335-40 (1989). The dormant commerce clause precludes states from regulating outside the state's borders. The Supreme Court employs a three-prong test for determining whether a state law is impermissibly extraterritorial:

> First, the 'Commerce Clause . . . precludes the application of a state statute to commerce that takes place wholly outside of the State's borders, whether or not the commerce has effects within the State . . . . Second, a statute that directly controls commerce occurring wholly outside the boundaries of a State exceeds the inherent limits of the enacting State's authority and is invalid regardless of whether the statute's extraterritorial reach was intended by the legislature. . . . Third, the practical effect of the statute must be evaluated not only by considering the consequences of the statute itself, but also by considering how the challenged statue may interact with the legitimate regulatory regimes of other states and what effect would arise if not one, but many or every, State adopted similar legislation. *Healy,* 491 U.S. at 336-37; *as quoted by* Pann, 2005 Duke L. & Tech. Rev. 0008.

As discussed above, California rules have a much greater potential to affect the costs of customers in the remaining SMJU states. First, the additional costs of compliance with a "first-seller" approach may impact consumers in other states unless the system is designed to compliment existing cost structures of SMJUs. If these costs are imposed on out-of-state consumers, the "first-seller" approach would affect out-of-state commerce and, more specifically, intrude upon the regulatory regimes of other states by superseding existing cost and rate structures approved by out-of-state utilities commissions. The intentions of the California Legislature are irrelevant if its effects impact commerce "wholly outside of the State's borders." *Id.* Additionally, California rules over-reach if they direct an SMJU on whether it may or may not optimize its out of state generation portfolio to the benefit of its non-California customers. California needs to recognize that other states are developing climate change regulations and that any stance taken by California on out-of-state energy generation may intrude jurisdiction of other states and will merely shift costs to out-of-state consumers rather than produce any net reduction in GHG emissions. Assuming the other SMJU states approve of a proposed portfolio optimization, and there is no guarantee that they would, the other states would be doing so in a manner reflecting their own energy and climate policies.

Thus, the "first-seller" approach, as applied to SMJUs, has the potential to severely impact commerce and the GHG emissions policies in other states. This is precisely the type of extraterritorial impact that the dormant commerce clause prohibits. Before implementing a "first-seller" approach, the Commission needs to carefully assess how SMJUs will be regulated to avoid these dormant commerce clause issues. The Commission should heed its own advice that "simpler is better"—as stated in its order on the RPS[5]—and base the allocations and reporting methodology on the existing cost protocols of SMJUs. The final regulations should also recognize future regulation of GHG emissions by other states, and ensure that California's regulations provide flexibility for SMJU compliance.

[5] California Public Utilities Commission, 253 P.U.R. 4th 1, 14.

Dated: August 6, 2007

Respectfully submitted,

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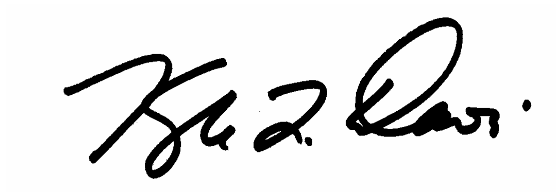

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3219/003/X91415.v1

CERTIFICATE OF SERVICE

I, Lisa Vieland, certify that I have on this 6th day of August 2007 caused a copy of the foregoing

PACIFICORP'S RESPONSE TO ADMINISTRATIVE LAW JUDGES' RULING REQUESTING COMMENTS AND LEGAL BRIEFS ON MARKET ADVISORY COMMITTEE REPORT

to be served on all known parties to R.06-04-009 listed on the most recently updated service list available on the California Public Utilities Commission website and in Docket 07-OIIP-01 at the California Energy Commission, via email to those listed with email and via U.S. mail to those without email service. I also caused courtesy copies to be delivered as follows:

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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 6th day of August 2007 at San Francisco, California.

/s/ Lisa Vieland
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3219/003/X91426.v1

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